IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

MISCELLANEOUS APPLICATION NO. 97 OF 2007

1. Rajendra Uttamrao Shelke)
2. Uttamrao Rambhaji Shelke)..Applicants

Versus

The State of Maharashtra and others ...Respondents

Mr. R.U. Shelke, applicant No.1, in person.
Mr. V.A. Sonpal, Assistant Government Pleader, for respondent Nos.1 and 2.
Mr. V.M. Thorat for respondent No.3.
Mr. K.K. Tated with Ms M.S. Jaiswal for respondent No.20.
Mr. R.G. Ketkar for Shirdi Nagar Panchayat.
Mr. S.V. Doijode for respondent No.28 in Civil W.P. No. 2692 of 2007.

CORAM: **SWATANTER KUMAR, C.J.**

Order reserved on : October 04, 2007
Order delivered on: October 11, 2007

ORDER:

This transfer application was hand delivered in the Secretariat of the Chief Justice on 7th September, 2007 at 2.15 p.m. On 10th September, 2007 it was marked to the Registrar (Legal). On 13th September, 2007, the Deputy Registrar (Legal) forwarded the same to the Registrar (Judicial). On 4th October, 2007, Registrar (Judicial-I) placed the same before the Chief Justice along with an office

submission. On 5th October, 2005, I directed the Registry to register the transfer application and place it before the Court. Thus, there is some delay in putting up the matter before the Court.

2. This transfer application has been filed by the applicants, who appear in person, with a prayer that the records of Writ Petition Nos. 3951 of 2005, 2692 of 2007, 4640 of 2007 and 5008 of 2007, which are pending before the Bench at Aurangabad, be called for, to constitute a special Bench to hear and dispose them of or to refer the matters to any other Bench other than the Division Bench presently hearing the aforesaid writ petitions.

3. In the transfer application, it has been averred that one of the Hon'ble Judges hearing the petitions had dealt with the matters while holding office as Principal Secretary, Law and Judiciary Department, Government of Maharashtra. The applicants have expressed apprehension that they are not likely to get justice and therefore the cases may be heard by some other Bench.

4. I have heard applicant No.1 and the learned counsel appearing for the parties. Besides the fact that the present application

is an abuse of the process of the Court, there are certain incorrect facts averred by the applicants in this application. During the course of hearing, it was pointed out that the arguments in Writ Petition No. 2692 of 2007 were heard on different dates from 7th June to 7th September, 2007, when the case was reserved for judgment. During all these hearings, the applicants had not mentioned the averments made in this application before the Bench and took their chance of the matters being heard by the Court. It is also incorrectly stated by the applicants that the interim order was in force during the pendency of the writ petitions. It may be noticed that an interim order was passed on 10th June, 2007 in Civil Writ Petition No. 3951 of 2005 directing that the school should not be shifted. After hearing the counsel for the parties, vide order dated 5th May, 2006, the said order dated 10th June, 2007 was vacated and thereafter no interim order was in force.

5. The learned counsel appearing for the parties have also placed on record a copy of the order dated 25th September, 2007, passed by the Supreme Court which further shows the conduct of the applicants.

6. No grounds have been made out for transferring the petitions

and, in fact, the present application is an abuse of the process of the Court. The same is accordingly dismissed.

CHIEF JUSTICE